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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex part GARY COMO,
SHERYL L. GAST-GRAHAM, DOUG GRIMM, BARRY SMIACH,
ARNOLD Z. HUFFMAN, RICHARD R. KRAHN, JOHN MITCHELL, and
MICHAEL S. SWEENEY

Appeal 2008-004558
Application 09/710,154
Technology Center 3600

Decided:¹ July 6, 2009

Before HUBERT C. LORIN, ANTON W. FETTING, and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

Gary Como, et al. (Appellants) seek our review under 35 U.S.C. § 134 of the final rejection of claims 2-5, 7-10, 14-16, 18-22, 34-38, 40, and 42-47. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM-IN-PART.²

THE INVENTION

The invention is a method for business planning via a communications network, which obtains data about a material, good, product or service from a first business entity and transmits the data to a second business entity, which generates a business decision. Specification 3:7-21.

Claim 7, reproduced below, is illustrative of the subject matter on appeal.

7. A method for planning a business decision, the method comprising:

obtaining requirement-indicating data of a first entity with respect to a transactional subject, wherein the obtaining comprises extracting a subset of the requirement-indicating data from a requirement-indicating database associated with an enterprise resource planning system, wherein the extracting process is selected from the group consisting of a process based on compatibility of a

² Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed Jul. 23, 2007) and Reply Brief ("Reply Br.," filed Feb. 7, 2008), and the Examiner's Answer ("Ans.," mailed Dec. 7, 2007).

processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and a process based on properties of the database;

automatically transmitting the obtained requirement-indicating data from a first business entity to a second business entity over a communications network;

automatically feeding the transmitted requirement-indicating data into an electronic processor for monitoring the transactional subject, the electronic processor being associated with an electronic processing system of the second business entity; and

generating a business decision of the first business entity and the second business entity that is based on the requirement-indicating data and that is made solely by the electronic processing system without the need for manual data entry into or manual data extraction from the electronic processing system.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Hafner	US 5,893,076	Apr. 6, 1999
Meltzer	US 6,125,391	Sep. 26, 2000

The following rejection³ is before us for review:

1. Claims 2-5, 7-10, 34-37, and 42-44⁴ are rejected under 35 U.S.C. §102(e) as being anticipated by Hafner.

³ Statements of the rejections in the Examiner's Answer incorrectly include cancelled claims 6, 13, and 17. See Ans. 3 and 9 and App. Br. 3.

2. Claim 38 is rejected under 35 U.S.C. §103(a) as being unpatentable over Hafner.
3. Claims 14-16, 18-22⁵, 40, and 45-47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hafner and Meltzer.

ARGUMENTS

Claims 2-5, 7, 9, 10 and 34-37

The Appellants argue that none of the passages cited by the Examiner describes the extracting process being selected from the group consisting of 1) a process based on compatibility of a processing system of a second business entity to receive the extracted subset, 2) a process based on previous history of usefulness of prior extracted data, 3) a process based on a model for managing the transactional subject, and 4) a process based on properties of the database as recited in claim 7. App. Br. 14-15. The Appellants also argue that the passages cited by the Examiner are not related to an extraction process. Reply Br. 2-4.

First, the Examiner responds that Hafner in column 3, lines 34-46 describes a process based on compatibility of a processing system of a second business entity to receive the extracted subset. Ans. 15. The Examiner

⁴ The Examiner rejected claims 18-20 and 22 under both 35 U.S.C. § 102 as anticipated by Hafner and 35 U.S.C § 103 as unpatentable over Hafner and Meltzer. See Ans. 3 and 10. However, claims 18-22 depend from claim 14, which was only rejected under 35 U.S.C. § 103. We will consider the rejection of claims 18-20 and 22 under § 103 and not under § 102 since it is clear that these claims were inadvertently included in the rejection under § 102. Further, we shall consider claim 21 as rejected under § 103 since it is reasonably clear that it was inadvertently left out of the rejection,

⁵ See footnote 4.

explains that a retailer's software running on a network is compatible with a client's communication device/software since the network accepts formatted data and makes the data available to the client. *Id.*

Second, the Examiner responds that Hafner's description of an associated menu which allows a user to extract data via evaluating demand history in column 10, lines 50-56 reads on a process based on previous history of usefulness of prior extracted data. Ans. 15-16.

Third, the Examiner responds that Hafner's description of a using replenishment modeling to manage parameters in column 10, lines 63-65 reads on this limitation. Ans. 16.

Fourth, the Examiner responds that Hafner's description of storing pertinent inventory information in both the stock and inventory files and using these files for extracting data in column 5, lines 10-19 reads on this limitation. Ans. 16.

Claim 8

The Appellants argue that Hafner does not describe transmitting a superseding requirement-indicating data on an as-needed basis, as recited in claim 8. App. Br. 15.

The Examiner again responds that column 4, lines 1-2 of Hafner describes inventory adjustment data which is analogous to data that is superseding prior inventory data. Ans. 16.

Claim 42

The Appellants argue that Hafner does not describe the extracting process which is based on compatibility of a processing system of a second business entity to receive the extracted subset. App. Br. 16.

The Examiner again responds that column 3, lines 34-46 describes this limitation. Ans. 16. The Examiner explains that a retailer's software running on a network is compatible with a client communication device/software since the network accepts formatted data and makes the data available to the client. *Id.*

Claim 43

The Appellants argue that Hafner does not describe the extracting process which is based on a previous history of usefulness of prior extracted data. App. Br. 16-17.

The Examiner again responds that Hafner's description of an associated menu which allows a user to extract via evaluating demand history in column 10, lines 50-56 reads on this limitation. Ans. 17.

Claim 44

The Appellants argue that Hafner does not describe the extracting process which is based on a model for managing the transactional subject. App. Br. 17.

The Examiner again responds that Hafner's description of using replenishment modeling to manage parameters in column 10, lines 63-65 reads on this limitation. Ans. 17.

Claim 38

The Appellants argue that Hafner does not describe the extracting process which is based on properties of the database and the Examiner provides no reason why Hafner would be altered to use the recited extraction process. App. Br. 18.

The Examiner responds that Hafner's description of storing pertinent inventory information in both the stock and inventory files, as well as, using

these files for extracting data in column 5, lines 10-19 reads on this limitation.
Ans. 17.

Claim 14-16, 18-20, and 22

The Appellants state that claim 14, like claim 7, recites the extracting process being selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and a process based on properties of the database. App. Br. 19. The Appellants again argue that none of the passages of Hafner cited by the Examiner describes this limitation and refer to their argument against the rejection of claim 7. *Id.* The Appellants also argue that no reason was provided to alter Hafner and Meltzer to meet this limitation. *Id.*

The Examiner contends that Hafner describes this limitation and refers to the Examiner's response with regards to claim 7. Ans. 18.

Claim 40

The Appellants argue that the Examiner has not provided a reason to alter Hafner and Meltzer to perform the recited extracting process based on properties of the database and that the passages of Hafner cited by the Examiner do not describe this limitation. App. Br. 20.

The Examiner responds that Hafner's description of storing pertinent inventory information in both the stock and inventory files as well as using these files for extracting data in column 5, lines 10-19 reads on this limitation. Ans. 18-19.

Claim 45

The Appellants argue that the Examiner has not provided a reason to alter Hafner and Meltzer to perform the recited extracting process based on compatibility of a processing system of a second business entity to receive the extracted subset and that the passages of Hafner cited by the Examiner do not describe this limitation. App. Br. 20-21.

The Examiner responds that Hafner in column 3, lines 34-46 describes this limitation. Ans. 19. The Examiner explains that a retailer's software running on a network is compatible with a client's communication device/software since the network accepts formatted data and makes the data available to the client. *Id.*

Claim 46

The Appellants argue that the Examiner has not provided a reason to alter Hafner and Meltzer to perform the recited extracting process based on previous history of usefulness of prior extracted data and that the passages of Hafner cited by the Examiner do not describe this limitation. App. Br. 21.

The Examiner responds that Hafner's description of a using replenishment modeling to manage parameters in column 10, lines 63-65 reads on this limitation. Ans. 19

Claim 47

The Appellants argue that the Examiner has not provided a reason to alter Hafner and Meltzer to perform the recited extracting process based on a model for managing the transactional subject and that the passages of Hafner cited by the Examiner do not describe this limitation. App. Br. 22.

The Examiner responds that Hafner's description of a using replenishment modeling to manage parameters in column 10, lines 63-65 reads on this limitation. Ans. 19-20.

ISSUES

The issues are:

1. Does Hafner describe the extracting process being selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and a process based on properties of the database as recited in claim 7?
2. Does Hafner describe transmitting superseding requirement-indicating data on an as-needed basis as recited in claim 8?
3. Does Hafner describe an extracting process based on compatibility of a processing system of a second business entity to receive the extracted subset as recited in claim 42?
4. Does Hafner describe an extracting process based on a process based on previous history of usefulness of prior extracted data as recited in claim 43?
5. Does Hafner describe an extracting process based on a process based on a model for managing the transactional subject as recited in claim 44?

6. Would one of ordinary skill in the art have been led by Hafner to an extracting process based on properties of the database as recited in claim 38?
7. Would one of ordinary skill in the art have been led by Hafner and Meltzer to an extracting process being selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and a process based on properties of the database as recited in claim 14?
8. Would one of ordinary skill in the art have been led by Hafner and Meltzer to the step of obtaining one of demand data or forecast data for the transactional subject?
9. Would one of ordinary skill in the art have been led by Hafner and Meltzer to an extracting process being based on properties of the database as recited in claim 40?
10. Would one of ordinary skill in the art have been led by Hafner and Meltzer to an extracting process being based on compatibility of a processing system of a second business entity to receive the extracted subset as recited in claim 45?
11. Would one of ordinary skill in the art be led by Hafner and Meltzer to an extracting process based on previous history of usefulness of prior extracted data as recited in claim 46?

12. Would one of ordinary skill in the art be led by Hafner and Meltzer to an extracting process based on a model for managing the transactional subject as recited in claim 47?

FINDINGS OF FACT

We find that the following enumerated findings of fact (FF) are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

Claim construction

1. Claim 7 recites a method including the step of:
 - obtaining requirement-indicating data of a first entity with respect to a transactional subject, wherein the obtaining comprises
 - extracting a subset of the requirement-indicating data from a requirement-indicating database associated with an enterprise resource planning system, wherein the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and a process based on properties of the database
 - automatically transmitting the obtained requirement-indicating data from a first business entity to a second business entity over a communications network.

2. Claim 8 recites “wherein the transmitting comprises transmitting superseding requirement-indicating data on an as-needed basis to replace prior requirement-indicating data at the second business entity.”
3. Claim 14 recites a method including the step of:

obtaining demand-indicating data with respect to a transactional subject, wherein the obtaining comprises:

extracting a relevant portion of the demand-indicating data from a database, wherein the extracting process is selected from the group consisting of a process based on compatibility of a processing system of a second business entity to receive the extracted subset, a process based on previous history of usefulness of prior extracted data, a process based on a model for managing the transactional subject and a process based on properties of the database.
4. Claim 21 depends from claim 14 and recites “obtaining one of demand data and forecast data for the transactional subject.”
5. Claim 38 depends from claim 7 and recites “wherein the extracting process is based on properties of the database.”
6. Claim 40 depends from claim 14 and recites “wherein the extracting process is based on properties of the database.”
7. Claim 42 depends from claim 7 and recites “wherein the extracting process is based on compatibility of a processing system of a second business entity to receive the extracted subset.”

8. Claim 43 depends from claim 7 and recites “wherein the extracting process is based on a process based on previous history of usefulness of prior extracted data.
9. Claim 44 depends from claim 7 and recites “wherein the extracting process is based on a process based on a model for managing the transactional subject.
10. Claim 45 depends from claim 14 and recites “wherein the extracting process is based on compatibility of a processing system of a second business entity to receive the extracted subset.”
11. Claim 46 depends from claim 14 and recites “wherein the extracting process is based on a process based on previous history of usefulness of prior extracted data.
12. Claim 47 depends from claim 14 and recites “wherein the extracting process is based on a process based on a model for managing the transactional subject.

The scope and content of the prior art

Hafner

13. Hafner describes a computer system for online processing of business transactions between a supplier and a retailer. Col. 2, ll. 42-45.
14. The computer system includes a retailer processor which transmits business data, a replenishment processor which receives the business data and generates suggested business transactions, and a supplier processor which receives the suggested business transactions. Col. 2, ll. 45-52.

15. The retailer processor transmits point of sale data and inventory adjustment data when the retailer either sells or loses goods to the replenishment processor via value added network 30. Col. 3, l. 64 – col. 4, l. 10 and Col. 6, ll. 12-15.
16. The value added network 30 formats the transmitted data. Col. 3, ll. 67.
17. The formatted transmitted data is then stored in a stock data file 240 or an inventory activity data 245 file by the populate inventory function 215 and the database manager 235. Col. 6, ll. 17-22.
18. The replenishment processor includes a forecast engine 230 which creates predictions of future needs based on parameters and the stock and inventory activity data. Col. 6, ll. 22-25.
19. Based on the prediction, the SOQ function 270 creates an SOQ (i.e. order). Col. 6, ll. 25-27.
20. Hafner describes the replenishment processor including a transaction processing system 5, which allows the retailer and supplier access to different functions. Col. 6, l. 65 – col. 7, l. 1.
21. Hafner describes one of the functions as a forecast processing sub-system which includes a parameter file menu which allows for management of parameters that control forecasting and replenishment modeling. Col. 10, ll. 63-65.
22. Hafner describes other functions as a “demand file maintenance” function, which allows a user to create and maintain a demand history file record (Col. 11, ll. 18-29) and a “update weekly demand” function (Col. 12, ll. 5-12).

Meltzer

23. The Examiner cited Meltzer to describe a system for parsing structured information and formatting the information into an extensible XML document. Ans. 13.

PRINCIPLES OF LAW

Claim Construction

During examination of a patent application, a pending claim is given the broadest reasonable construction consistent with the specification and should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

[W]e look to the specification to see if it provides a definition for claim terms, but otherwise apply a broad interpretation. As this court has discussed, this methodology produces claims with only justifiable breadth. *In re Yamamoto*, 740 F.2d 1569, 1571 (Fed. Cir. 1984). Further, as applicants may amend claims to narrow their scope, a broad construction during prosecution creates no unfairness to the applicant or patentee. *Am. Acad.*, 367 F.3d at 1364.

In re ICON Health and Fitness, Inc., 496 F.3d 1374, 1379 (Fed. Cir. 2007). Limitations appearing in the specification but not recited in the claim are not read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369 (Fed. Cir. 2003).

Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art

reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Obviousness

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 550 U.S. at 407 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 17-18.

ANALYSIS

The rejection of claims 2-5, 7-10, 34-37, and 42-44 under 35 U.S.C. §102(e) over Hafner.

Claims 2-5, 7, 9, 10, and 34-37

The Appellants argued claims 2-5, 7, 9, 10, and 34-37 as a group (App. Br. 15). We select claim 7 as representative claim of this group, and the remaining claims, 2-5, 9, 10, and 34-37, stand or fall with claim 7. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

A determination that a claim is anticipated under 35 U.S.C. § 102(b) involves two analytical steps. First, the Board must interpret the claim language, where necessary. Because the PTO is entitled to give claims their broadest reasonable interpretation, our review of the Board's claim construction is limited to determining whether it was reasonable. *In re Morris*, 127 F.3d 1048, 1055 (Fed. Cir. 1997). Secondly, the Board must compare the construed claim to a prior art reference and make factual findings that "each and every limitation is found either expressly or inherently in [that] single prior art reference." *Celeritas Techs. Ltd. v. Rockwell Int'l Corp.*, 150 F.3d 1354, 1360 (Fed. Cir. 1998).

In re Crish, 393 F.3d 1253, 1256 (Fed. Cir. 2004).

Claim 7 recites a method including the step of obtaining requirement-indicating data, wherein the obtaining comprises extracting a subset of the requirement-indicating data, wherein the extracting process is selected from a group-consisting of 1) a process based on compatibility of a processing system of a second business entity to receive the extracted subset, 2) a process based on previous history of usefulness of prior extracted data, 3) a process based on a model for managing the transactional subject and 4) a process based on properties of the database. FF 1. We note that claim 7 recites that the step of obtaining requirement-indicating data comprises an extraction process but does not restrict the step from comprising other processes. The transitional term "comprising" as recited (FF 1) opens the claim to additional elements. *See Genentech Inc. v. Chiron Corp.*, 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997). See also *Moleculon Research Corp. v. CBS, Inc.*, 793 F.2d 1261, 1271 (Fed. Cir. 1986). Also, claim 7 does not recite who or what performs the obtaining step or where the obtaining step is performed. However, we note that claim 7 also recites a step of transmitting the obtained requirement-indicating data from a first business entity to a second business

entity over a communications line. *Id.* Further, for claim 7 to be anticipated only one of the four recited extracting processes must found in the prior art. However, since the Appellants provide arguments against each of the four recited processes, we will address each.

First, we agree with the Examiner that Hafner describes a step of obtaining requirement-indicating data comprising an extraction process based on compatibility of a processing system of a second business entity to receive an extracted subset of the requirement-indicating data from a database as recited by claim 7. Hafner describes a replenishment system that receives inventory information from a retailer system. FF 15. The information is formatted by a value added network into any format supported by the network before arriving at the replenishment system. FF 16. As explained by the Examiner, the formatting makes the data compatible to the replenishment system. Ans. 15. We find that this reads on the claimed step of obtaining requirement-indicating data including an extraction process (i.e. the process of formatting the transmitted inventory information) based on compatibility of a processing system of a second business entity (i.e. the replenishment system) to receive the extracted subset (i.e. the transmitted formatted inventory information).

Second, we agree with the Appellants that Hafner does not describe a step of obtaining requirement-indicating data comprising an extraction process based on previous history of *usefulness* of prior extracted data. Hafner's description of creation of demand history files (FF 22) cited by the Examiner (Ans. 15-16) does not read on an extraction process based on previous history of *usefulness* of prior extracted data.

Third, we agree with the Appellants that Hafner does not describe a step of obtaining requirement-indicating data comprising an extraction process based on a model for managing the transactional subject. Hafner describe that the inventory activity data file and the stock file receive the formatted data from the retailer (FF 15-17) and are inputted in to the forecast engine (FF 18). Hafner also describes a forecast processing subsystem includes a parameter file menu which allows for management of the replenishment model (FF 21) as cited by the Examiner (Ans. 16). However, Hafner does not describe that the parameters, parameter file menu or replenishment model is used as a basis for an extraction process of a subset of information. Hafner is silent as to how forecast processing subsystem process the inventory activity data file and the stock file with the parameters to obtain the prediction and the Examiner has not asserted that the forecast engine would inherently extract a subset of data based on the replenishment model. When relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. See *Ex parte Levy*, 17 USPQ2d 1461, 1464 (BPAI 1990).

Fourth, we agree with the Examiner (Ans. 16.) that Hafner describes a step of obtaining requirement-indicating data comprising an extraction process based on properties of the database. As discussed above in regards to the first recited process, Hafner describes formatting the data transmitted from the retailer in a value added network. FF 15-17. The formatting of the data transmitted from the retailer reads on a property of the database.

Accordingly, since Hafner does describe two of the recited extraction processes, we find that the Appellants have not shown that the Examiner erred in rejecting claim 7, and claims 2-5, 9, 10, and 34-37 dependent thereon.

Claim 8

We agree with the Examiner that Hafner describes the transmitting superseding requirement-indicating data on an as-needed basis as a recited in claim 8. FF 2. Hafner describes the retailer transmitting inventory adjustment information when the retailer either sells or loses which reads on the claimed step of transmitting superseding requirement-indicating data. FF 13.

Accordingly, we find that the Appellants have not shown that the Examiner erred in rejecting claim 8.

Claim 42

The Appellants argue against the rejection of claim 42 for one of the same reasons used to argue against the rejection of claim 7. (App. Br. 16). Claim 42 restricts the extraction process to be the process based on compatibility of a processing system of a second business entity to receive the extracted subset (FF 7), which the Appellants assert is not described by Hafner. Accordingly, because we found this argument unpersuasive as to the rejection of claim 7, we find the argument equally unpersuasive as to error in the rejection of claim 42.

Claim 43

The Appellants argue against the rejection of claim 43 for one of the same reasons used to argue against the rejection of claim 7. App. Br. 16-17. Claim 43 restricts the extraction process to be a process based on previous history of usefulness of prior extracted data (FF 8), which the Appellants assert is not described by Hafner. Accordingly, since we found this argument

persuasive as discussed above, we find the argument equally persuasive as to error in the rejection of claim 43.

Claim 44

The Appellants argue against the rejection of claim 44 for one of the same reasons used to argue against the rejection of claim 7. App. Br. 17. Claim 44 restricts the extraction process to be a process based on a model for managing the transactional subject (FF 9), which the Appellants assert is not described by Hafner. Accordingly, since we found this argument persuasive as discussed above, we find the argument equally persuasive as to error in the rejection of claim 44.

The rejection of claim 38 under 35 U.S.C. §103(a) over Hafner.

The Appellants argue against the rejection of claim 38 for one of the same reasons used to argue against the rejection of claim 7. (App. Br. 18). Claim 38 requires the extraction process to be the process based on properties of the database (FF 5), which the Appellants argue Hafner does not teach as asserted by the Examiner. Accordingly, because we found this argument unpersuasive as to the rejection of claim 7, we find the argument equally unpersuasive as to error in the rejection of claim 38.

The rejection of claims 14-16, 18-20, 22, 40, and 45-47 under 35 U.S.C. §103(a) over Hafner and Meltzer.

Claims 14-16, 18-20, and 22

The Appellants argued claims 14-16, 18-20 and 22 as a group (App. Br. 19). We select claim 14 as the representative claim for this group, and the remaining claims 15-16, 18-20 and 22 stand or fall with claim 14. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Like claim 7, claim 14 also recites the step of obtaining data, wherein the obtaining comprises extracting a subset of data, wherein the extracting process is selected from a group-consisting of 1) a process based on compatibility of a processing system of a second business entity to receive the extracted subset, 2) a process based on previous history of usefulness of prior extracted data, 3) a process based on a model for managing the transactional subject and 4) a process based on properties of the database. FF 3. We note that claim 14 also recites the step of automatically transmitting the extracted relevant portion of the demand-indicating data from a first business entity to a second business. *Id.*

The Appellants argue against the rejection of claim 14 for the same reasons used to argue against the rejection of claim 7 and further the Appellants argue the Examiner has provided no reason to alter Hafner and Meltzer to perform the recited extracting process. App. Br. 19. However, we found these arguments unpersuasive as to the rejection of claim 7 since we found that Hafner described two of the four recited processes, and we find the arguments equally unpersuasive as to error in the rejection of claim 14 and claims 15-16, 18-20 and 22, dependent thereon.

*Claim 21*⁶

Claim 21 recites that the obtaining step includes obtaining one of demand data or forecast data for the transactional subject. FF 4. The Examiner found that Hafner's inventory information is demand data. Ans. 3. We agree with the Examiner that Hafner's inventory adjustment data that received at the replenishment processor (FF 15) teaches the step of obtaining

⁶ See footnote 4.

one of demand data or forecast data for the transactional subject. Therefore, we find that claim 21 is unpatentable over Hafner and Meltzer.

Claim 40

The Appellants argue against the rejection of claim 40 for one of the same reasons used to argue against the rejection of claim 7. App. Br. 20. Claim 40 requires the extraction process to be the process based on properties of the database (FF 6), which the Appellants argue Hafner does not teach as asserted by the Examiner. Accordingly, because we found this argument unpersuasive as to the rejection of claim 7, we find the argument equally unpersuasive as to error in the rejection of claim 40.

Claim 45

The Appellants argue against the rejection of claim 45 for one of the same reasons used to argue against the rejection of claim 7. App. Br. 20-21. Claim 45 requires the extraction process to be the process based on compatibility of a processing system of a second business entity to receive the extracted subset (FF 10), which the Appellants argue Hafner does not teach as asserted by the Examiner. Accordingly, because we found this argument unpersuasive as to the rejection of claim 7, we find the argument equally unpersuasive as to error in the rejection of claim 45.

Claim 46

The Appellants argue against the rejection of claim 46 for one of the same reasons used to argue against the rejection of claim 7. App. Br. 21. Claim 46 restricts the extraction process to be the process based on previous history of usefulness of prior extracted data (FF 11), which the Appellants argue Hafner does not teach as asserted by the Examiner. Accordingly, since

we found this argument persuasive as discussed above, we find the argument equally persuasive as to error in the rejection of claim 46.

Claim 47

The Appellants argue against the rejection of claim 47 for one of the same reasons used to argue against the rejection of claim 7. App. Br. 22. Claim 47 requires the extraction process to be the process based on a model for managing the transactional subject (FF 12), which the Appellants argue Hafner does not teach as asserted by the Examiner. Accordingly, since we found this argument persuasive as discussed above, we find the argument equally persuasive as to error in the rejection of claim 47.

CONCLUSIONS OF LAW

We conclude that the Appellants have not shown that the Examiner erred in rejecting claims 2-5, 7-10, 34-37, and 42 under 35 U.S.C. § 102(e) as anticipated by Hafner, claim 38 under 35 U.S.C. § 103 as unpatentable over Hafner, and claims 14-16, 18-22, 40, and 45 under 35 U.S.C. § 103 as unpatentable over Hafner and Meltzer.

We conclude that the Appellants have shown that the Examiner erred in rejecting claims 43-44 under 35 U.S.C. § 102(e) as anticipated by Hafner, and claims 46-47 under 35 U.S.C. § 103 as unpatentable over Hafner and Meltzer.

DECISION

The decision of the Examiner to reject claims 2-5, 7-10, 14-16, 18-22, 34-38, 40, 42, and 45 is affirmed and the decision to reject claims 43, 44, 46, and 47 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2007).

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AFFIRMED-IN-PART

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